

**Planning Commission Workshop
Project Summary**

Project Number	PC11-808PFCP
Project Name	State Farm Auto Insurance
PC Workshop Date	March 19, 2012

Proposal: The Applicant is requesting preliminary forest conservation plan approval associated with the disturbance of 4.11 acres due to expansion of a parking lot onsite at the State Farm campus. The parking lot expansion qualifies for, and is being processed as, an administrative, staff level final site plan for staff approval in accordance with Section 309.

Important Issues: The State Farm campus is located on Monocacy Blvd north of MD 26. The site is 93.796 acres in size resulting in an afforestation/forest conservation requirement of 14.07 acres. The site currently contains 10.2 acres of forest resulting in an afforestation requirement of 3.87 acres.

As has been done with similar projects on large parcels which were developed prior to the adoption of forest conservation requirements, Staff is requiring that the Applicant mitigate only the disturbed area at this time due to the small proportion of the parcel involved. Future development or redevelopment of the site will require additional mitigation at such time that it is proposed. The Applicant has conveyed to Staff that ultimate development plans for the property are uncertain and that they do not wish to encumber the property with extensive easements if it can be avoided at this time. Based on a disturbed area of 4.11 acres for this project proposal, the Applicant must provide mitigation in the amount of 0.617 acres. Mitigation is to be met through the placement of an easement over existing forest onsite.

As noted above, the total mitigation requirement for the entire site is over 14 acres, a meaningful amount of land area to create viable forest with numerous environmental benefits. The challenge that the City faces in successfully implementing the forest conservation regulations on sites such as this is that the development has already limited the amount of land available and location for future plantings. An incremental approach often results in request for fee in lieu of payments which is not the top priority. As noted above, at such time that the Applicant wishes to conduct additional development on this site, Staff will continue to advocate for onsite plantings and against fee in lieu of payment without proper justification. As such, the Applicant should be mindful of planning future development with onsite forest conservation requirements taken into consideration.

Planning Commission Workshop Project Summary

Project Number	PC12-128FSI
Project Name	Whittier PND Section 10
PC Workshop Date	March 29, 2012

Proposal: The proposed final site plan is part of the Whittier PND; Section 10 is the final section to be developed. The proposal consists of five (5) condominium buildings containing 12 units each, with 70 units total.

Background: This proposal was previously approved by the Planning Commission on August 9, 2004, however expired and was reapproved by the Commission on March 14, 2011 in accordance with the 1986 Zoning Ordinance. **The Applicant is requesting approval to revise the proposal to modify the building height from the previously approved 35-feet to 49 feet, as well as decrease the building footprint by approximately 13-14% in size.** There will be no change in the number of units or number of floors proposed. The requested revision is a result in the change of building design since the original approval in 2004.

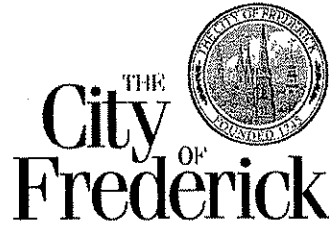
This project is exempt from complying with the design standards of the LMC including setbacks, impervious surface ratio, parking, etc. per Table 910-1 as the presence of governmental constraints (i.e. water allocation) prevented the entire project from being completed. Therefore, the project was reviewed by using the 1986 Zoning Ordinance, however, Section 910(b)(6) of the LMC requires that all new applications submitted after August 15, 2005 comply with the procedural requirements of Article 3 and the submittal requirements of Article 11.

Important Issues: Per Section 16.10 of the 1986 Zoning Ordinance, the Planning Commission has discretion to reduce lot areas, widths, and yards and increase building heights within Planned Neighborhood Developments. The proposed request to modify the building height from 35' to 49' is before the Commission at the final site plan stage because the building height was not specified at the time of master plan approval.

At the time that the master plan was approved, the Whittier PND was zoned R3, Medium Density Residential. The maximum height in the R3 district at that time was 40' for permitted residential uses, however, multi-family units were not permitted use in the R3 zoning district except in accordance with the PND provisions. Per Section 16.09 of the 1986 Ordinance, any structure which exceeded the building height normally applicable in the zoning district in which it is located had to be setback from any property that was not part of the planned neighborhood a distance equal to twice its proposed height or 90 feet, whichever ever greater. To the east, the subject property abuts open space in the PND, however to the south and the west, the property abuts residential properties located in the County and as such, must be setback at least 98' from those properties. At the closest point, no building is less than 100' from either property line.

The Applicant has indicated that request to increase the building heights in the development results from the desire to construct a product that has 9' ceiling within the units while still maintain a pitched roof.

Randy McClement
Mayor



Aldermen

Karen Lewis Young
President Pro Tem

Michael C. O'Connor
Shelley M. Aloï
Carol L. Krimm
Kelly M. Russell

March 12, 2012

Fox & Associates, Inc.
C/o John Mazelon
82 Worman's Mill Ct., Suite G
Frederick, MD 21701

Re: FINAL SITE PLAN PC12-128FSI: WHITTIER SECTION 10 (NAC #1)

Dear Mr. Mazelon:

Staff has reviewed the above-referenced plan. Staff has divided comments into two sections: issues of major concern, and those that are of a technical nature. Please address the following comments:

MAJOR ISSUES

1. Provide architectural elevations of the proposed buildings for the Planning Commission's consideration.

TECHNICAL ISSUES

1. Please update Notes 15 and 16 regarding the impervious surface ratio since the reduction in building size.
2. .
3. The Water Allocation will need to be revised to read:

CITY OF FREDERICK WATER AND SEWERAGE NOTE:

The City of Frederick has instituted a Capacity Management Program governing the allocation of potable water and sewerage capacity to comply with Annotated Code of Maryland, Environment Article, § 9-512 . The allocation of water and sewerage treatment

capacity for the development of the property depicted on this plat/site plan will be made in accordance with Chapter 25, Article IX of The Code of the City of Frederick, 1966 (as amended). Final allocation of water and sewerage treatment capacity is generally made at the time of building permit application, subject to the availability of such capacity and the payment of all required fees. The ability to permit and develop lots will be dependent on potable water supply and sewerage treatment capacity available at the time of building permit application. Federal, State, or City action, including operational moratoria, may temporarily suspend, delay or otherwise affect an allocation. Recordation of this plat or approval of this site plan is in conformance with the Frederick County Ten Year Water and Sewerage Plan.

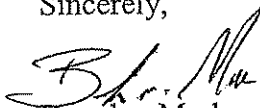
<i>APPROVAL AGENCIES</i>	<u>NO WRITTEN RESPONSE</u>	<u>RESPONSE, NO COMMENT</u>	<u>VERBAL OR WRITTEN COMMENTS ATTACHED OR BELOW</u>
CITY ENGINEERING DEPARTMENT			X

Comments are required before this plan can move forward

******Important******

Once **all** of the comments have been addressed, please submit 12 paper copies (**one of which is highlighted**) of the plan and a response letter addressing all agency comments. This office shall receive the resubmission, with all comments addressed, of this plan no later than **March 26, 2012** to be placed on the **April 9, 2012** Planning Commission agenda. If you have any additional questions concerning this project, please feel free to contact me at 301-600-1770 or if you prefer by electronic mail at bmark@cityoffrederick.com.

Sincerely,


Brandon Mark
City Planner

CC: Gabrielle Dunn, Division Manager of Current Planning

**Planning Commission Workshop
Project Summary**

Project Number	PC12-110ZTA
Project Name	Nursing/Domiciliary Care Facility
PC Workshop Date	March 19, 2012

Proposal:

The Applicant is proposing amendments to Section 404, Table 404-1 of the Land Management Code (LMC) entitled, the *Use Matrix*, and Section 841 of the LMC entitled, *Nursing Home/Domiciliary Care, Adult Living Facility* in order to establish domiciliary care facilities as a conditional use in the Manufacturing/Office (MO) zoning district.

Important Issues:

Currently, nursing homes/domiciliary care/adult living facilities are permitted as a principal use in the MU and IST zoning districts. They are permitted as a conditional use in the RO, R4, R6, R8, R12, R20, NC, DB, DR, and MXE districts and as such, require approval from the Zoning Board of Appeals (ZBA). The criteria by which the ZBA must evaluate such proposals are outlined in Section 841 of the LMC.

Per Section 401, the MO zoning district is established in order to provide a park-like setting for a community of industries which have no nuisance factors. The purpose statement notes that while there is leeway in the types of industries permitted, the appearance and means of operation within the district should be scrutinized and compared to the performance standards of the Code. In evaluating the development criteria of the LMC, construction in the MO district is subject to the standard bulk and dimensional criteria prescribed in Section 405, Table 405-1, including minimum lot size, minimum lot frontage, minimum setbacks, maximum heights, and maximum impervious surface permitted. Section 405(c) provides further specifications unique to MO development which include maximum building coverage, minimum landscaped area, screening requirements, and architectural review authority by the Planning Commission. These additional requirements assist in implementing the purpose and intent of the district as expressed in Section 401.

To assist the Commissions in considering the proposed amendment, Staff has identified the following uses that are currently permitted in the MO district:

Permitted by Right	<ul style="list-style-type: none"> • Hotel, Motel and Tourist court • Broadcasting/recording studio • Electrical Systems Service • Financial Services (bank, savings and loan, credit union) • Offices, Business and Professional • Offices, Regional (bank, savings and loan, credit union, insurance) • Appliances, Assembly, production • Construction Equipment, Assembly Production • Electronic Components Manufacturing and Processing • Electronic Equipment Assembly Production • Medical Laboratory • Newspaper printing • Laboratories and testing offices in conjunction with scientific
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	/industrial research and development <ul style="list-style-type: none"> • Printing Bulk Photo Processing, Blueprint Services • Solar Energy Manufacturing • Tools Industrial Machinery, Mechanical Equipment • Conference Center • Golf Course/Club • Indoor Recreation Complex • Park • Public Safety (police/Fire/ambulance) facilities • Schools, Public/Private • Heliport/Helistop • Agricultural Production
Permitted by Conditional Use	<ul style="list-style-type: none"> • Automobile filling station • Commercial use of historic structure • General restaurant • Telecommunications facilities

There are a variety of uses permitted in the MO district ranging from light industry/manufacturing to office as well as support services like hotels and conference centers which are important in an employment oriented center like the MO district is intended to create. While the inclusion of a domiciliary care facility/nursing home facility in this list is a deviation from the general theme, Staff finds that it is not incompatible with regards to the primary focus of the MO district, which is to prevent the establishment of businesses and industries which create nuisances. In fact, as a conditional use, domiciliary care facilities are currently seen suitable even for residential zones where concerns regarding nuisances such as traffic generation, noise, etc. are often a primary concerns. The criteria for ZBA conditional use approval also require that the architecture of the building be compatible with existing structures in the immediate area; a central theme of the MO district.

With regards to the location of MO land in the City, it is limited to the Ballenger Creek Center and a small area along Thomas Johnson Drive. Having limited areas of MO property to develop in the future as business centers, Staff has assessed the above uses to determine their permissibility in other districts to ensure that the proposed amendment would not limit future opportunities. In doing so, Staff has concluded that all of the other uses permitted in MO are also permitted in the general commercial (GC) or industrial districts (M1 and/or M2). In addition, the Mixed Use Employment Center (MXE) floating zone is a development option available for the creation of large scale office parks/employment centers in the M1 and M2 zoning district.

With regards to the Comprehensive Plan, Staff finds that the proposed amendment is consistent with the following goals and implementation strategies in addition to those stated in the Applicant's justification statement.

- *Land Use Policy 1: Encourage development to be compatible with the character of existing or planned development in the vicinity.*

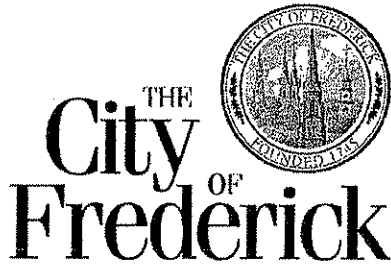
As referenced above as a conditional use, the ZBA will be evaluating any such proposal for compatibility, creation of nuisances, etc. as part of the approval process. This allows for a case-by-case review of a proposal within the context of the surrounding community.

- *Land Use Policy 3: Allow land uses that build upon regional and local economic assets.*

The primary medical care provider, Frederick Memorial Hospital, for Frederick County is located within the City and is supported by a variety of other healthcare providers concentrated in areas like Thomas Johnson Drive. As such, increasing the opportunities for nursing homes/domically care facilities builds upon those assets currently already located in the City.

- Economic Development Policy 2: Maintain a diverse industry mix.

Increasing the opportunities for these types of facilities also increases employment opportunities as well as the need for support industries.



For Official Use Only	
PC Case Number:	
Hearing Date:	
DRC Date:	
Text Amendment Fee:	\$
\$4,400.00	
Date Paid:	

Planning Department * 140 W. Patrick Street * Frederick, Maryland 21701 * 301.600.1499

APPLICATION FOR LAND MANAGEMENT CODE TEXT AMENDMENT

Please legibly print or type the following Land Management Code Text Amendment Application in its entirety. Incomplete applications will not be accepted. Submit the application, along with fee, and **twenty eight (28)** copies of the application and support documentation on or before 3:00 p.m. on the application deadline date.

OWNER INFORMATION
Name: Bruce N. Dean
Firm/Company: Linowes and Blocher LLP
Address: 8 West Third Street, Frederick, Maryland 21702
Phone: 301-620-1175 email: bdean@linowes-law.com
REPRESENTED BY – OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.
Name: SAME AS ABOVE
Firm/Company:
Address:
Phone: email:
All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box: <input type="checkbox"/>
ORDINANCE BEING CHANGED
LMC Section No: 841 and Table 404-1 Use Matrix
Text: See attachments

Proposed Amendment:

See attachments

I hereby attest that the information provided on and attached to this application is complete and correct. This application must be accompanied by a filing fee.



Signature of Applicant Bruce N. Dean

February 27, 2012

Date

Application may be made by any citizen or official or agency of the City, per Section 306(c) of the LMC.

Required Attachments:

A. Statement to explain or support the requested amendment.

See attached justification statement

15 16

**Sec. 841 NURSING HOME/ DOMICILIARY CARE/
ADULT LIVING FACILITY**

Nursing homes, domiciliary care, and adult living facilities are allowed as a permitted principal use in MU and IST districts, and as a conditional use in RO, R4, R6, R8, R12, R16, R20, NC, DB, DR, **MO**, AND MXE districts provided that all of the following conditions can be met:

- (a) The applicant provides guarantees as deemed appropriate by the Zoning Board of Appeals that the facility will not adversely effect the character of any existing residential neighborhood nor influence the future development of a planned residential area because of the size or appearance of the building, increased traffic, noise, or other characteristic of the use which may be out of character with residential use. All buildings must be architecturally compatible with existing structure in the immediate area.
- (b) The applicant must obtain all required state approvals and licenses prior to the Board's approval of the use.
- (c) The site of the proposed use must be adequately protected from noise, traffic, air pollution or other potential hazards to the residents of the facility.
- (d) A site plan with information required by Section 309 must be provided for the Board's review. This plan must show the proposed facility and all future expansions.
- (e) The following density limitations shall apply:

Table 841-1 Nursing Home/Domiciliary Care/ Adult Living Density

R4 and R6	500 sq. feet of lot area per bed
R8 and R12	400 sq. feet of lot area per bed
All other R, NC, DB, DR, MO , and MXE districts	300 sq. feet of lot area per bed

Table 404-1 Use Matrix

Use	RC	RO	R4	R6	R8	R12	R16	R20	PB	NC	GC	MO	M1	M2	DB	DR	DBO	MU	MXE	IST	PRK	LBCS Function	LBCS Structure	NAICS
Nursing Home/Conciliary Care/Adult Living Facility		C	C	C	C	C	C	C		C		C			C	C		M	C	P		1230 1250 6520	-	623110 623111 623112 623312 623311

P = permitted by right A = accessory use S = shopping center use only
 C = conditional use T = temporary use
 M = Mixed-Use conditional use

**Application for Text Amendment to
City of Frederick Land Management Code
Table 404-1 Use Matrix and Section 841 Nursing Home/Domiciliary
Care/Adult Living Facility
Justification Statement**

A. Introduction and Background.

The Applicant, Bruce N. Dean, is a citizen and property owner within the City of Frederick and is therefore qualified to apply for a text amendment under Section 306(c)(1) of the Land Management Code ("LMC") of the City of Frederick. Mr. Dean is applying on behalf of his client, 101 Development Group, LLC, a wholly owned subsidiary of Genesis HealthCare LLC ("Genesis"). Genesis is one of the nation's largest long-term care and rehabilitation therapy providers and operates more than 200 Skilled Nursing Centers and Assisted/Senior Living Communities in 13 eastern states between Maine and North Carolina.

Genesis currently operates a skilled nursing center in the City of Frederick known as "College View Center" which is located on Toll House Avenue near Frederick Memorial Hospital ("FMH") and Hood College. College View Center currently has the capacity to care for up to 109 patients and residents. It employs approximately 140 healthcare workers and center administrators, who staff the Center on a 24 hour per day basis, working 3 shifts. Nationwide, Genesis employs over 47,000 people dedicated to the delivery of quality health care to the residents and patients in its centers. The Genesis Rehabilitation Services division also provides contract therapy to over 1,100 health care providers in 28 states and the District of Columbia.

The site where College View Center is located is owned by FMH. The current facility is more than 50 years old and provides a standard of care which is necessarily compromised by the substandard facility in which the Center is located. Genesis is seeking to relocate and expand College View Center into a state of the art skilled nursing facility within the boundaries of the City of Frederick if possible. The proposed expansion would permit Genesis to provide its patients and residents with the care required by 21st Century medical advancements and to greatly enhance the quality of life of these patients and residents. In Genesis' search throughout the City of Frederick for a site to relocate the College View Center, it has found an excellent candidate site adjacent to the Frederick News Post corporate headquarters along Ballenger Center Drive south of I70. However, this site is zoned "MO – Manufacturing/Office". Nursing Homes such as College View Center are currently not permitted in the MO zoning district.

Nursing Homes/Domiciliary Care/Adult Living Facilities, which are grouped together by the LMC, are currently permitted as "Conditional Uses" (requiring Zoning Board of Appeals ("BZA") approval) within the RO, R4, R6, R8, R12, R16, R20, NC, DB, DR, MU and MXE zoning districts, and are only permitted by right in the IST zone. Genesis proposes to amend the LMC to add the MO zoning district to the districts in which Nursing Homes/Domiciliary Care/Adult Living Facilities are permitted as a Conditional Use.

B. Justification.

Pursuant to Section 306(b)(4) of the LMC, a text amendment should implement the policies of the comprehensive plan and be consistent with existing regulations. Genesis believes the proposed text amendment meets both of these criteria, as follows:

1. Implementing the Comprehensive Plan.

The City of Frederick adopted an update to its comprehensive plan in November of 2009, which is referenced as the "2010 Comprehensive Plan". In Chapter One of the 2010 Comprehensive Plan, it states that "[t]he Comprehensive Plan is a guide for the location, character and extent of proposed public and private development in the City of Frederick, Maryland. The Comprehensive Plan's policies and recommendations will be implemented over time through many distinct decisions including capital improvements, rezoning, text amendments, and changes to city codes as well as other documents." (emphasis added). It is thus clear that the 2010 Comprehensive Plan anticipates the need for text amendments to the LMC to implement its policies and recommendations.

Among the policies and recommendations of the 2010 Comprehensive Plan are to balance residential and employment growth and to improve and enhance the quality of life for residents. CP pg 6. How does the 2010 Comprehensive Plan accomplish this as it relates to employment areas, such as those zoned MO? Among other things, the Plan states that:

"stakeholders expressed the need increase the number and variety of local jobs in order to diversify Frederick's employment base beyond the predominant commercial uses and government jobs. To meet these needs, the City of Frederick must continue to maintain an adequate supply of non-residentially zoned land and to provide incentives that accommodate office, emerging technologies, and other high quality employment. Allowing a mix of land uses at a variety of locations will improve opportunities to accommodate the City's growth." CP pg. 18

It is our contention that allowing nursing homes in the MO zoning district will further these goals without compromising the City's supply of employment ground. First, nursing homes are employment centers as much or more than they are residential areas. A permanent staff of over 100 employees, with around the clock staffing, is necessary to operate most nursing homes. These facilities cost in the tens of millions of dollars to construct and add significantly to the tax base of the City. The employees tend to do a preponderance of their shopping in nearby commercial districts. Many of the jobs at advanced skilled nursing facilities are similar to those found in hospitals and often require professional certification. These facilities are a true mix between employment and residential use and thus promote the City's goal of balancing, and often mixing, the use of land between residential and employment uses. Finally, and importantly, because a skilled nursing facility requires the approval of a Certificate of Need from the State of Maryland Health Care Commission (the "MHCC"), the City is virtually guaranteed that these facilities will not proliferate and compromise the City's available supply of employment zoned land. There is no question that it is a specific goal of the 2010

Comprehensive Plan to “preserve high-quality future office lands primarily for office uses.” *CP pg. 29*. It needs to be clear that the MHCC, prior to issuing a Certificate of Need for a skilled nursing facility in a community, will perform a strict assessment of the number of existing beds serving that community, in order to make sure such a facility is warranted. This has proven to be an effective limitation on the number of such facilities throughout the State of Maryland. This will also be an effective means of insuring that the goal of the 2010 Comprehensive Plan to preserve high quality office lands will not be diminished by the implementation of this proposed text amendment.

Finally, it is also important to note that LU Policy 1 of the 2010 Comprehensive Plan is to “Encourage development to be compatible with the character of existing or planned development in the vicinity.” *CP pg. 30*. By insisting that nursing homes only be approved as conditional uses, by the BZA, the proposed text amendment insures that such proposed uses will first be reviewed by an independent agency which is entrusted by the City with making certain that incompatible uses do not sprout up in neighborhoods where they do not belong. Genesis would contend that, properly planned, a skilled nursing facility will be compatible with both residential and employment uses, and can serve as an effective bridge from one such use to another, or as a border between such uses. A good example of this is the assisted living and Alzheimer’s facility in the Whittier neighborhood of the City of Frederick, where such facilities are an attractive and well-integrated part of the commercial area of a residential mixed use neighborhood.

2. Consistency with existing regulations.

In the LMC, unless zoned for Institutional use, all new nursing homes are governed by Section 841. This text amendment proposes no changes to the existing conditions on approval for a nursing home as found in Section 841. The conditions found in Section 841 are designed to adequately protect surrounding neighborhoods, especially residential ones, but also to give the BZA sufficient information with which to make an informed decision as to the suitability of the proposed use for the proposed site. The BZA will judge each applicant for a nursing home in an MO zone using the same criteria by which it judges nursing homes elsewhere in the City of Frederick, and there are simply no proposed changes which might make it easier for an applicant to locate in an MO zone as opposed to any other zoning district. Because the proposed text amendment makes no changes to Section 841 at all, other than to add the MO zoning district, we believe that this text amendment is thus clearly consistent with the LMC.

In addition, however, lands zoned MO are also protected by the performance standards found in Section 405(c) of the LMC. This section is intended to make sure that MO zoned properties are held to a higher standard than other employment areas (such as those zoned M1 or M2). Among the performance standards found in Section 405(c) are these:

- *100 foot setback from interstate highways or residential districts*
- *Maximum building coverage of 30%*
- *Minimum landscaped area of 20%*
- *Design standards, architectural standards and screening standards*

This text amendment does not propose to change any of the performance standards found in Section 405(c) for the MO zone for nursing homes. When the Planning Commission is reviewing a site plan for a nursing home in an MO zone, it will have the exact same standards to implement for the nursing home as it would for an office or other permitted use. This will insure to the City of Frederick that MO properties are compatible and there will be no adverse effects on other uses in the MO zoned neighborhood. Therefore, we would contend that the text amendment is completely consistent with the existing regulations found in the LMC, for nursing homes in general, no matter what the zone in which they are located, but also for the MO zoning district and for the other uses permitted there.

C. Conclusion.

The proposed text amendment is necessary for Genesis to replace its existing facility and remain in the City of Frederick. The text amendment is consistent with and helps to implement the 2010 Comprehensive Plan. It is also consistent with the regulations found in the LMC for nursing homes and for the MO zoning district and does nothing to change any of the standards the BZA or Planning Commission will use to review and approve a proposed facility, it merely allows such a facility to locate within the MO zone if an applicant can meet these standards to the reasonable satisfaction of the BZA and the Planning Commission. Therefore, for all of these reasons, the proposed text amendment should be approved.

**Planning Commission Workshop
Project Summary**

Project Number	PC12-77ZTA
Project Name	Signage Regulations
PC Workshop Date	March 19, 2012

Proposal:

The City is proposing amendments to Section 864, *Sign Regulations* for the purpose of amending the section generally as well as addressing signage that is integrated into bus shelters operated by TransIT Services of Frederick County.

Important Issues:

An emerging trend in local jurisdictions is the inclusion of signage on public transit bus shelters as a means of financing such amenities. Throughout the Washington DC- Metropolitan area, jurisdictions such as the City of Gaithersburg and Montgomery County have established programs whereby advertising rights are sold to assist in reducing operating costs to the local government while still providing valuable amenities to transit passengers. TransIT Services is looking towards establishing a similar program within the County and as such, has evaluated the opportunities available within the City -- the hub of TransIT's system. In initiating these discussions, Staff has concluded that the current signage regulations prohibit such signage.


Per Section 864(e) of the LMC, no signage other than an official traffic-related sign shall be located within or project into a public right of way. There are certain exclusions such as signs that are attached to buildings in the DBO and DBO districts, sandwich board signs which are also permitted downtown, and certain temporary signs. Bus shelters would be exclusively located within the public right of way and as such, signage on shelters would be prohibited under this provision. Further, Section 864(o) prohibits any outdoor advertising signs or billboards where a billboard is defined as any off-site sign on a permanent structure on which the copy is periodically changed and which is not located on the premises to which such advertising copy pertains. Accordingly, Staff is proposing to revise the LMC in a manner which would eliminate these obstacles.

There are several alternatives that Staff has considered and for which Planning Commission's direction is desired. The first option would be to expressly exempt signs on bus shelters from compliance with Section 864 in general. A similar approach was taken with wayfinding signs in which subsection (c)(14) was added which simply states that wayfinding signs that are part of a City-sponsored and coordinated program approved by the Mayor and Board of Alderman are exempt from the sign regulations. There are several disadvantages with this method, namely that it does not address signage on bus shelters in the Historic Preservation Overlay (HPO), nor does it establish a maximum size standard to enforce. Conversely, Staff has also contemplated drafting a separate subsection for signage on bus shelters similar to the provisions established for changeable copy signs or residential entry signs. This would involve setting general provisions which would apply City-wide regardless of the zoning of property. In a dedicated subsection, the City could establish limitations such as previously noted.

As noted above, the impetus for the proposed changes is the request by Transit Services, however, while Staff is taking the time to amend this subsection, Staff is also considering additional "housekeeping" amendments to signage in general. The primary goal of these changes is for clarification and ease of use, as opposed to substantive changes. A complete ordinance outlining those proposals will be forwarded to the Commission when a hearing date has been scheduled.

MEMORANDUM

TO: Joe Adkins, Planning Director, City of Frederick

FROM: Sherry Burford,  Director, TransIT Services of Frederick County

DATE: December 13, 2011

SUBJECT: Bus Passenger Shelter Program

In an effort to improve passenger convenience and reduce annual operating costs, Transit Services of Frederick County proposes to implement a passenger shelter program, which would generate revenues from the sale of advertising space on passenger shelters at bus stop locations. The City of Frederick is the primary area served by the Connector bus routes operated by the County. The majority of the bus stop locations have no passenger shelter, benches, or other passenger amenities. The installation of passenger shelters would significantly improve customer convenience and comfort by providing protection from weather conditions while waiting for the arrival of the bus.

The Strategic Plan adopted by the Board of County Commissioners includes *Goal #6: Transportation and Traffic, 3. By June 2012, allow off-site advertising so that advertising space can be leased on passenger bus shelters as a revenue source to offset the cost of operating local transit services.* The implementation of a passenger shelter program would achieve this goal, reduce operating costs and improve passenger convenience. Typical bus passenger shelter programs involve entering into an agreement with a vendor to install and maintain shelters at bus stop locations with high ridership activity. Advertising space within the shelter is sold, generating profit for the vendor and revenue for the transit system. The number, location, and style of the shelters, as well as the amount of ad space and content permitted are negotiated between the local jurisdiction and the vendor to reflect local standards/expectations. We would work with the City to develop an acceptable plan. We could restrict the installation of shelters within the Historic District.

It is my understanding that the City of Frederick's Land Management Ordinance prohibits off-site/commercial advertising within the right-of-way, which effectively eliminates the opportunity to implement a shelter program. Therefore, I request consideration to amend the ordinance to exempt bus passenger shelter advertising from the current sign regulation or to amend the regulation to allow advertising in bus passenger shelters.

I appreciate your consideration of this request. Please contact me if you have any questions or need additional information.

cc: C. Anderson-Watters
J. Russin

**Planning Commission Workshop
Project Summary**

Project Number	PC12-121ZTA
Project Name	FAA Updates
PC Workshop Date	March 19, 2012

Proposal:

The City is proposing amendments to Section 419, *Airport Overlay District*, Section 864, *Sign Regulations*, and Section 866, *Telecommunications Facilities* as they apply to the filing requirements for applications within the Airport Overlay (AO) District.

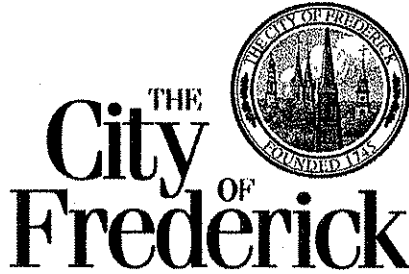
Important Issues:

Through the implementation of the AO district requirements and in working on various projects which have the potential to impact operations at the Municipal Airport, Staff has identified a deficiency in the current requirements for new construction or alterations of structures. Specifically, that while the regulations currently require applicants to file with the Federal Aviation Administration (FAA), they are not required to file with the Maryland Aviation Administration (MAA) – a review authority in the State that also supplies funding for the Airport. For the purpose of predictability and to ensure that all affected parties are notified of new construction/alterations, Staff is proposing language which mandate notification of the MAA in the case of site plan development in the AO, new signs, and telecommunications facilities.

With regards to the Comprehensive Plan, Staff finds that the proposed amendments are consistent with the following goals and implementation strategies:

- *Land Use Policy 6: Improve City regulations in order to provide a user-friendly and predictable permitting process.*

Clearly articulating where outside agency approval is also required ensures that applicants are aware and that additional time during the review process may be necessary to adequately obtain all approvals.



For Official Use Only	
PC Case Number:	12-121
Hearing Date:	
DRC Date:	
Text Amendment Fee:	\$
\$4,400.00	
Date Paid:	

Planning Department * 140 W. Patrick Street * Frederick, Maryland 21701 * 301.600.1499

APPLICATION FOR LAND MANAGEMENT CODE (LMC) TEXT AMENDMENT

Please legibly print or type the following Land Management Code Text Amendment Application in its entirety. Incomplete applications will not be accepted. Submit the application, along with fee, and **twelve (12)** copies of the application and supporting documentation on or before the application deadline date as specified on the Planning Commission Schedule.

APPLICANT INFORMATION	
<i>Application may be made by any citizen or official or agency of the City, per Section 306(c) of the LMC</i>	
Name: The City of Frederick Municipal Airport (Staff: Tim Davis)	
Firm/Company:	
Address: 111 Airport Drive East	
Phone: 301-600-1884	email: tdavis@cityoffrederick.com
REPRESENTED BY – OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.	
Name: same	
Firm/Company:	
Address:	
Phone:	email:

All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box: ☐

REGULATIONS BEING CHANGED
LMC Section: §419 (f) Site Plan Requirements
Existing Text:
(3) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or Alteration, shall be submitted whenever construction or alternation of a structure is proposed with the following characteristics:

Proposed Text:

(3) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or Alteration, shall be submitted via an online application at : <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>, and a paper copy sent to the Maryland Aviation Administration at: P.O. Box 8766, Third Floor, Terminal Building, BWI Airport MD 21240-0766 whenever construction or alternation of a structure is proposed with the following characteristics:

JUSTIFICATION STATEMENT:

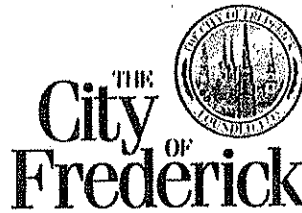
This amendment will make the Federal process much easier by allowing on-line submission, and it will also include the Maryland Aviation Administration in the process as well.

I hereby attest that the information provided on and attached to this application is complete and correct. This application must be accompanied by a filing fee.

Signature of Applicant

Date

Randy McClement
Mayor



Aldermen

Karen Lewis Young
President Pro Tem

Michael C. O'Connor
Shelley M. Aloï
Carol L. Krimm
Kelly M. Russell

February 23, 2012

Meta Nash, Chairwoman
City of Frederick Zoning Board of Appeals
140 West Patrick St
Frederick, MD 21701

Subject: Zoning Text Amendment

Dear Chairwoman Nash,

I am writing you on behalf of Frederick Municipal Airport Commission to express our support of a Zoning Text Amendment to the Land Management Code. This very simple and brief amendment is in support of a request made by the Maryland Aviation Administration (MAA) to require developers of cellular telephone towers, and projects within the Airport Overlay Zone to submit their findings in the Obstruction Evaluation process; a form called the 7460-1 independently to the MAA for concurrence.

It is a common practice, and required already, by our ordinance to make the submission to the Federal Aviation Administration. The submission of the 7460-1 results to MAA will be, and have always been, addressed in a timely manner with little disruption to the project. By the addition of this requirement, the level of predictability of heightened.

The Airport Commission has supported staff zoning and land use change around the airport for the safety of all, not just our pilots. We wish our support to not be a burden, but that this amendment is approved for the betterment of the aviation community, as well as the residents of our community.

Sincerely,

Arthur Dee, Chairman

CC: Gabrielle Dunn, Division Manager
Ashish Solanki, MAA

Section 419, Airport Overlay

§419 (f) (3) Site Plan Requirements

- (3) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or ~~[Alteration, shall]~~ Alteration shall be submitted to the Federal Aviation Administration and the Maryland Aviation Administration whenever construction or alternation of a structure is proposed with the following characteristics:
- A. Any construction or alternation of more than 200 feet in height above the ground (AGL) at its site.
 - B. Any construction or alternation of greater height than the Part 77 imaginary surface detailed under the Airspace and Safety Surfaces described below.
 - C. Any highway, railroad or other traverse way for mobile objects of a height which if adjusted upward 17 feet of an interstate highway that is part of the National System of Military and Interstate Highways where over-crossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a rail system, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of (3)(a) or (b) of this section.
 - D. When requested by the FAA, any construction or alternation that would be in an instrument approach area as defined in the FAA standards governing in instrument approach procedures.
 - E. Any construction or alternation on Airport property that is available for public use.
- (4) Each applicant who is required to notify the Administrator shall send one executed form set of *FAA Form 7460-1* to the ~~[appropriate FAA Office address shown on Form 7460-1]~~ Federal Aviation Administration, another set to the Maryland Aviation Administration, one set to the Manager, Frederick Municipal Airport, and one set to the City of Frederick Department of Planning for review. This notice must be submitted at least 30 days before the earlier of the following dates:
- A. The date the proposed construction or alternation is to begin.
 - B. The date an application for a construction permit is to be filed.

Section 864, Sign Regulations

§864 (f)

- (14) ~~[-In]~~ In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or Alteration shall be submitted to the Federal Aviation Administration and the Maryland Aviation Administration ~~[the Airport Overlay Zone]~~, when applicants are proposing signs eight (8) feet or over in the Airport Overlay Zone. [must complete a FAA Form 7460.]

Section 866, Telecommunications Facilities

§866 (a)

- (14) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or Alteration,~~[The applicant shall file an FAA Form 7460-1 Notice of Proposed Construction or Alteration]~~ the applicant shall file with the Federal Aviation Administration and the Maryland Aviation Administration where the proposed telecommunications facility or telecommunications antennas is within three (3) miles of the Frederick Municipal Airport and as required by Federal Aviation Administration Regulation Part 77.13.

**Planning Commission Workshop
Project Summary**

Project Number	PC12-145ZTA
Project Name	Sections 423(e)-(j) & 1002
PC Workshop Date	March 19, 2012

Proposal:

When Section 423 was revised in 2009, the section on Certificate of Approval expiration was dropped. This amendment reintroduces that section and includes other amendments to improve the section's overall usability. Amendments are also proposed to Section 1002 in order to update the definition of "alteration" as well as other general amendments resulting from proposed changes to Section 423. The HPC reviewed this proposal at their workshop on February 23, 2012.

Important Issues:

SECTION 1002

1. Use "site or structure" throughout to more closely align with the language in Article 66B, §8, Historic Area Zoning.
2. Remove "of unusual importance" from 423(e)(1)(A) and (B). Existing language states the Commission "shall determine the degree of significance of the structure or resource based on the criteria established in the Commission's guidelines. There are no criteria in the Commission's guidelines for identifying sites or structures "of unusual importance." Sites and structure of unusual importance are, by definition, also contributing. Therefore, the multi-hearing process identified for contributing resources applies.
3. Move the section on "Replacement Plans" to the "Procedures" section so that it is clear from the beginning that an application for a replacement plan is required as part of the process.
4. In 423(e)(2) and (3), eliminate the special definition of "structure" as an entire structure only and eliminate the special definition of "resource" as part of structure.
 - Section 1002 already includes a detailed definition of structure that is specific to Section 423 and includes "a part thereof." It is confusing to include this specific definition in 1002 and then refer back to 423 and find that it is defined differently.
 - It is not immediately clear from reading 423(e)(3) that "resource" is defined as a part of feature of structure.
 - Resource, as currently defined, is not in line with its use in historic preservation. Resource is more typically used as an alternative to "site or structure" and is not limited to a part of a structure.
 - These two subsections have been combined.
5. Eliminate the references to structures or resources "of unusual importance" in Approval Criteria for Demolition. Sites and structures "of unusual importance" are also contributing sites or structures (see 6).
6. Move the section on "Sites and Structures of Unusual Importance" to be immediately following the section on demolition and update the definition to be "a

contributing site or structure that individually meets one or more of the criteria for designation...”

7. Reintroduce the section on “Certificate of Approval Expiration” that was dropped from the 2009 update. Certificates of Approval normally expire two years after the date of approval or the date of the water and sewer allocation contract, if applicable.

SECTION 1002

Key revisions

1. Update the definition of alteration to include the painting or coating of masonry structures that are not currently painted or coated in the Historic Preservation Overlay.
2. Replace all references to “Historic Frederick District Regulations” with “Historic Preservation Overlay (HPO) District regulations.”
3. Provided a more concise definition of “Character-Defining Elements” based on the National Park Service “Preservation Brief 17: Architectural Character: Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character.” Eliminate references to outdated guidelines.
4. Delete definition of “Character Defining Features” because it is redundant.
5. Delete definition of “Landmark.” Section 423 uses “site or structure.”
6. Delete definition of “Resource.” See amendments to Section 423 above. (NOTE: Resource was left out of most recent LMC supplement so it may not appear in your copies.)

(e) Demolition.

(1) Procedures. In making a decision on a demolition application, the Commission may use a multi-hearing process as further described in this § 423(e)(1).

A. Degree of Significance. At the first hearing, the Commission shall determine the degree of significance of the site or structure based on the criteria established in the Commission's guidelines. For purposes of this § 423(e), "degree of significance" means **(a)** "non-contributing"; **(b)** "contributing."

B. Approval or Denial of Demolition Request.

(i) Non-contributing. If the Commission determines that a site or structure is non-contributing, the Commission may take action on the demolition request at the same hearing.

(ii) Contributing. If the Commission determines that a site or structure is contributing, the Commission may not vote on the demolition request until a subsequent hearing.

C. Replacement Plans. An application for demolition of a site or structure shall include a replacement plan. Approval for the demolition of a site or structure may be conditioned upon the approval of an acceptable replacement plan. A bond or other financial guaranty in the amount of the cost of the replacement structure may be required in order to assure the completion of the replacement plan.

(2) Approval Criteria for Demolition.

A. Non-contributing. The Commission may approve the demolition of a non-contributing site or structure if the following pertains:

(i) The integrity of the streetscape will not be compromised;

(ii) The integrity of any surrounding historic properties will not be compromised; and

- (iii) The design integrity of any remaining structure will not be compromised if the structure being considered for demolition is a part thereof.
 - B. **Contributing.** The Commission may approve the demolition of a contributing site or structure if the following pertains:
 - (i) The integrity of the streetscape will not be compromised;
 - (ii) The integrity of any surrounding historic properties will not be compromised; and
 - (iii) The degree of significance of any remaining structure will not be compromised if the structure being considered for demolition is a part thereof.
- (3) **Demolition by Neglect.** In the event of demolition by neglect, the Commission may request that the appropriate department of the City initiate enforcement action against any appropriate defendant in accordance with the Property Maintenance Code or other applicable City law.

(f) Sites and Structures of Unusual Importance.

- (1) **Definition.** For purposes of this § 423(f), a site or structure "of unusual importance" is a contributing site or structure that individually meets one or more of the criteria for designation set forth in § 423(c)(2).
- (2) **Plan to Preserve Site or Structure.**
 - A. If an application is submitted for construction, reconstruction or alteration, moving, or demolition of a site or structure of unusual importance, the Commission shall attempt to formulate an economically feasible plan with the owner of the site or structure for its preservation.
 - B. If no economically feasible plan can be formulated, the Commission shall have 90 days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the site or structure.
- (3) **Action on Application.**

- A. Denial.** Except as otherwise provided in §423(f)(3)(B), unless the Commission is satisfied that the proposed construction, reconstruction or alteration will not materially impair the historic, archeological or architectural significance of the site or structure, the Commission shall deny the application for construction, reconstruction or alteration.
- B. Approval.** The Commission may approve the proposed construction, reconstruction, alteration, moving or demolition if:
 - (i)** The structure is a deterrent to a major improvement program that will be of substantial benefit to the City;
 - (ii)** Retention of the structure would cause undue financial hardship to the owner; or
 - (iii)** Retention of the structure would not be in the best interests of a majority of persons in the City.

(g) New Construction.

- (1) Applicability.** This section 423(g) applies to any new construction (in a historic preservation overlay zone) for which a site plan is required pursuant to § 309 of this Code.
- (2) Phased Review.** The Commission will review applications for new construction projects in two phases, which will be known as "Level I" and "Level II". A separate application is required for each phase.

A. Level I.

- (i)** During Level I review, the Commission will consider the following aspects of any proposed new construction project, using the criteria established in the Commission's guidelines:
 - (a)** Location;
 - (b)** Footprint;
 - (c)** Massing;
 - (d)** Height;

- (e) Setback;
 - (f) Scale;
 - (g) Façade;
 - (h) Roof forms;
 - (i) Materials; and
 - (j) Plot plan.
 - (ii) After the Commission reviews those aspects of the project set forth in § 423(g)(2)(A)(i), it may issue a Level I certificate of approval.
- B. Site Plan.** The applicant shall obtain conditional or unconditional final site plan approval after the Commission issues a Level I certificate of approval and before the Commission commences Level II review of a new construction project.
- C. Level II.**
- (i) During Level II review, the Commission will consider the following aspects of any proposed new construction project, using the criteria established in the Commission's guidelines:
 - (a) Texture;
 - (b) Openings;
 - (c) Lighting;
 - (d) Landscaping;
 - (e) Site plan;
 - (f) Final articulation;
 - (g) Detailed façade and elevations; and
 - (h) Fenestration.

- (ii) After the Commission reviews those aspects of the project set forth in § 423(g)(2)(B)(i), it may issue a Level II certificate of approval.

(h) Certificate of Approval Expiration. Any Certificate of Approval by the Historic Preservation Commission shall become void two years from the later of:

- (1) The date of the approval; or
- (2) The date of the water and sewer allocation contract (if applicable) as specified in § 742 (Water & Sewer Allocation) indicating sufficient allocation has been received to construct;

If no zoning or building permit has been issued for development of the project. A six-month extension may be granted by the Department upon request of the applicant. Further extensions may be granted by the Commission.

(i) Appeals. Any person aggrieved by a decision of the Commission may, within 30 days of the decision, file a petition for judicial review in the Circuit Court for Frederick County in accordance with the Maryland Rules applicable to judicial review of administrative agency decisions.

(j) Maryland Historical Trust. The Commission may designate the Maryland Historical Trust or a private qualified historic preservation consultant to conduct an analysis of, report on, or recommend the preservation of sites, structures, or districts of historic, archeological, architectural, or cultural significance within the City. The report may include proposed boundaries of sites, structures, or districts, as well as recommendations for the identification and designation of particular sites, structures, or districts to be preserved.

architectural significance of the surrounding site or structure, the Commission shall not strictly judge plans for sites or structures of little historic, archeological or architectural significance or plans involving new construction.

- D. Limiting Architectural Style.** The Commission is not required to limit construction, reconstruction or alteration to the architectural style of any one period.

(4) Certificate of Approval, Approval With Conditions, or Denial.

- A. Certificate to be Filed.** The Commission shall file with the Building Department a certificate of approval, approval with conditions, or denial of each application submitted to it for review.

- B. Building Permits.** The Building Department may not issue a building permit for a project until the Building Department has received a certificate of approval. Work may not be commenced on any project until a certificate of approval has been filed and all other applicable requirements have been met.

- C. Failure to Act on Application.** The failure of the Commission to act upon a completed application within 45 days from the date the application is deemed complete constitutes automatic approval of the application unless the applicant and the Commission agree to an extension of the 45 day period or the application is withdrawn.

- D. Resubmittal.** An application that is substantially the same as a denied application may not be resubmitted within a period of one year after the denial.

- (5) Routine Maintenance.** Nothing in this article shall be construed to prevent routine maintenance, customary farming operations, or landscaping that has no material effect on the historic, archeological, or architectural significance of a site, structure or district located within a historic preservation overlay zone.

- (e) Demolition.**

1) Procedures. In making a decision on a demolition application, the Commission may use a multi-hearing process as further described in this § 423(e)(1).

A. Degree of Significance. At the first hearing, the Commission shall determine the degree of significance of the structure or resource based on the criteria established in the Commission's guidelines. For purposes of this § 423(e), "degree of significance" means **(a)** "noncontributing"; **(b)** "contributing but not of unusual importance"; or **(c)** "of unusual importance".

B. Approval or Denial of Demolition Request.

(i) Noncontributing. If the Commission determines that a structure or resource is noncontributing, the Commission may take action on the demolition request at the same hearing. In making its decision, the Commission shall use the applicable criteria of § 423(e)(2) or (3). The Commission may also take action on any replacement plans at the same hearing.

(ii) Contributing But Not of Unusual Importance or Of Unusual Importance. If the Commission determines that a structure or resource is either contributing but not of unusual importance or is of unusual importance, the Commission may not vote on the demolition request until a subsequent hearing. In making its decision, the Commission shall use the applicable criteria of § 423(d)(3)(B).

(2) Demolition of Structure.

A. Definition. For purposes of this § 423(e), "structure" means an entire structure, not just a part or feature of a structure.

B. Approval Criteria.

(i) Noncontributing or Contributing But Not of Unusual Importance. The Commission may approve the demolition of a

structure that is either noncontributing or that is contributing but not of unusual importance if the demolition will not compromise the integrity of the streetscape or of any surrounding historic property.

- (ii) **Structure of Unusual Importance.** The Commission may approve the demolition of a structure of unusual importance in accordance with § 423(g)(3)(B).

- C. **Replacement Plans.** An application for demolition of a structure shall include a replacement plan. Approval for the demolition of a structure may be conditioned upon the approval of an acceptable replacement plan. A bond or other financial guaranty in the amount of the cost of the replacement structure may be required in order to assure the completion of the replacement plan.

(3) Demolition of Resource – Approval Criteria.

- A. **Noncontributing.** The Commission may approve the demolition of a noncontributing resource if the demolition will not compromise the integrity of the streetscape or of any surrounding historic property.
- B. **Contributing But Not of Unusual Importance.** The Commission may approve the demolition of a resource that is contributing but not of unusual importance if:
 - (i) The demolition will not compromise the integrity of the streetscape or of any surrounding historic property; and
 - (ii) The demolition will not result in the structure of which the resource is a part being reclassified from contributing to noncontributing.
- C. **Structure of Unusual Importance.** The Commission may approve the demolition of a resource of unusual importance in accordance with § 423(g)(3)(B).

- (4) **Demolition by Neglect.** In the event of demolition by neglect, the Commission may request that the appropriate department of the City initiate enforcement action against any appropriate defendant in accordance with the Property Maintenance Code or other applicable City law.

(f) New Construction:

- (1) **Applicability.** This section 423(f) applies to any new construction (in a historic preservation overlay zone) for which a site plan is required pursuant to § 309 of this Code.
- (2) **Phased Review.** The Commission will review applications for new construction projects in two phases, which will be known as "Level I" and "Level II". A separate application is required for each phase.

A. Level I.

- (i) During Level I review, the Commission will consider the following aspects of any proposed new construction project, using the criteria established in the Commission's guidelines:
- (a) Location;
 - (b) Footprint;
 - (c) Massing;
 - (d) Height;
 - (e) Setback;
 - (f) Scale;
 - (g) Façade;
 - (h) Roof forms;
 - (i) Materials; and
 - (j) Plot plan.
- (ii) After the Commission reviews those aspects of the project set forth in § 423(f)(2)(A)(i), it may issue a Level I certificate of approval.

B. Site Plan. The applicant shall obtain conditional or unconditional final site plan approval after the Commission issues a Level I certificate of approval and before the Commission commences Level II review of a new construction project.

C. Level II.

(i) During Level II review, the Commission will consider the following aspects of any proposed new construction project, using the criteria established in the Commission's guidelines:

- (a)** Texture;
- (b)** Openings;
- (c)** Lighting;
- (d)** Landscaping;
- (e)** Site plan;
- (f)** Final articulation;
- (g)** Detailed façade and elevations; and
- (h)** Fenestration.

(ii) After the Commission reviews those aspects of the project set forth in § 423(f)(2)(B)(i), it may issue a Level II certificate of approval.

(g) Sites and Structures of Unusual Importance.

(1) Definition. For purposes of this § 423(g), a site or structure of "unusual importance" is a site or structure that meets one or more of the criteria for designation set forth in § 423(c)(2).

(2) Plan to Preserve Site or Structure.

A. If an application is submitted for construction, reconstruction or alteration, moving, or demolition of a site or structure of unusual importance, the Commission shall attempt to formulate an

economically feasible plan with the owner of the site or structure for its preservation.

- B. If no economically feasible plan can be formulated, the Commission shall have 90 days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the site or structure.

(3) Action on Application.

- A. **Denial.** Except as otherwise provided in §423(g)(3)(B), unless the Commission is satisfied that the proposed construction, reconstruction or alteration will not materially impair the historic, archeological or architectural significance of the site or structure, the Commission shall deny the application for construction, reconstruction or alteration.
- B. **Approval.** The Commission may approve the proposed construction, reconstruction, alteration, moving or demolition if:
 - (i) The structure is a deterrent to a major improvement program that will be of substantial benefit to the City;
 - (ii) Retention of the structure would cause undue financial hardship to the owner; or
 - (iii) Retention of the structure would not be in the best interests of a majority of persons in the City.

(h) Maryland Historical Trust:

- A. The Commission may designate the Maryland Historical Trust or a private qualified historic preservation consultant to conduct an analysis of, report on, or recommend the preservation of sites, structures, or districts of historic, archeological, architectural, or cultural significance within the City. The report may include proposed boundaries of sites, structures, or districts, as well as recommendations for the identification and designation of particular sites, structures, or districts to be preserved.

- (1) Appeals.** Any person aggrieved by a decision of the Commission may, within 30 days of the decision, file a petition for judicial review in the Circuit Court for Frederick County in accordance with the Maryland Rules applicable to judicial review of administrative agency decisions.

Agriculture and Special Events Center

An area wherein buildings, structures, and land are used for, but not limited to,

- Fairs and festivals, including associated food booths and stands, games, rides, sales and similar support and event operations
- The indoor and outdoor showing/exhibiting/judging and sales of
 - Animals;
 - Arts and crafts;
 - Agricultural products;
 - Sporting goods, such knives, guns, bow and arrows;
 - Vehicles, machinery and equipment, such as cars, motorcycles, recreational vehicles, farm/construction equipment
 - Wine and beer
 - Or other similar types of expositions
- Farmers Market
- Carnivals and circuses
- Community and business meetings/conventions
- Auctions and associated sales (both inside and outside)
- Indoor and outdoor entertainment events, such as musical concerts, live performances, and other types of entertainment events, excluding any adult use or adult activity as herein defined
- Special events, parties, civic activities, etc, including catering and entertainment
- Training and educational activities occurring both indoors and outdoors
- Athletic and sporting events
- Rodeos
- Motorized special events, including tractor pulls and motorcycle races but excluding automobile car races. Such motorized special event shall not occur on a weekly basis.
- Associated offices and storage facilities/buildings for the agricultural and special events center
- Other periodic or seasonal cultural or entertainment programs or events.
- Also includes parking and other support areas for all activities located on the fairgrounds, agricultural fairs and shows.
- Parking for community events held off premises.

Airfield or Airport, General Aviation

Frederick Municipal Airport.

Airport Layout Plan (ALP)

The detailed document approved by the Federal Aviation Administration, The Maryland Aviation Administration and the Mayor and Board of Aldermen that dictates the future development of the airport.

Airport Elevation

The highest point on any usable landing surface expressed in feet above mean sea level.

Alley

A public or private right-of-way affording secondary means of side or rear access to abutting property.

Allocation

Water and/or sewer capacity granted pursuant to Section 742 of this Code.

Allocation Contract

A legally enforceable commitment that the City will serve a development project with water and sewer for the number of gallons per day (GPD) expressed therein and subject to the terms and conditions stated therein.

Alteration

Any enlargement; addition; relocation; repair; remodeling; change in number of living units; development of or change in an open area; development of or change in a sign, by painting or otherwise; or other change in a facility, but excluding painting except as provided above for signs and ordinary maintenance for which no building permit is required. For purposes of the Historic Preservation Overlay (HPO) District regulations (§ 423 of this Code), an alteration shall include the painting or coating of masonry structures that are not currently painted or coated.

Alternative Living Unit

A residence that: (i) provides residential services for individuals who, because of developmental disability, require specialized living arrangements; (ii) admits not more than 3 individuals; and (iii) provides 10 or more hours of supervision per unit, per week. "Alternative living unit" does not include a residence that is owned or rented by: (i) 1 or more of its residents; or (ii) A person who is an agent for any of the residents; but is not a provider of residential supervision.

Amend or Amendment

Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal or abolition of any map, part thereof, or addition thereto.

Annexation

The act or process of adding land to a governmental unit, usually in an incorporated place, by an ordinance, a court order, or other legal action. This process is used by municipalities to add surrounding fringe areas to the boundaries of their community.

Antenna, Communications

A device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, and omni directional antennas, such as whip antennas.

Antennas, Residential Accessory

Any device used to transmit or receive radio or television waves of any kind.

Antiques

A place offering antiques for sale. An antique, for the purposes of this Code shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past and at least 30 years old.

Apartment

A room or suite of rooms, with toilet and culinary accommodations used or designed as a residence and located in a building containing two or more such rooms or suites or located in a building devoted to nonresidential use.

Applicant

The "applicant" is the person(s), firm or governmental agency who executes the necessary forms to procure official approval of a development proposal, project, plan, permit, use, or approval to carry out construction of a project. Unless otherwise provided, the "applicant" includes any designated agent of the applicant.

Application for Development Approval or "Application"

Any application for approval of a rezoning, conditional use permit, site plan, master plan, concept plan, subdivision plat, zoning certificate, building permit, or certificate of occupancy, or for any other permit or development plan required by this Code.

Approach Surface

A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface, and at the same slope as the approach zone height limitation slope. In the Airport Safety Zone Map, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Transitional, Horizontal, and Conical Zones

The air space zones.

Approved Forest Management Plan

A document approved by the Department of Natural Resources forester assigned to the county in which the property is located; and which operates as a protective agreement for forest conservation as described in the Natural Resources Article, Sec. 5-1607(e)--(f), Annotated Code of Maryland.

Appurtenances and environmental settings

All that space of grounds and structures which surrounds a designated site or structure and to which it relates physically or visually. Appurtenances and environmental settings include, but are not limited to, walkways and driveways (whether paved or not), trees, landscaping, pastures, croplands, waterways, open space, setbacks, parks, public spaces, and rocks. (Reference: Historic

Preservation Overlay (HPO) District regulations ~~Historic Frederick District regulations, § 423)~~

Aquifer

A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a useable amount of groundwater to wells or springs.

Arcade, Commercial Amusement

An area that contains electrical machines (e.g. pinball, video games) which provides amusement, enjoyment, or entertainment and which may be operated upon the insertion of a coin or token. This term shall not include juke boxes, children's mechanical rides (e.g. horses, rocket ships), or machines that sell merchandise.

Archeologist, Professional

All archeological investigations must be conducted by or under the direct supervision of an individual meeting the Secretary of the Interior's "Professional Qualifications Standards" (48 FR 44738-44739). The Secretary of the Interior's "Professional Qualifications Standards" establishes the following minimum professional qualifications in archeology:

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or a closely related field plus:

- At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
- At least four months of supervised field and analytic experience in general North American archaeology; and
- Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology should have at least one year of full-time professional experience at a supervisory level in the study of resources of the prehistoric period. A professional in historic archeology should have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

Archaeological Resources

Any material of past human life, activities, or habitation that are of historic significance. Such material includes but is not limited to pottery, basketry, bottles, weapon projectiles, tools, rock carvings, graves, skeletal remains, personal items, and clothing, which may be found above or below the ground.

Architectural Lighting

Lighting fixtures that are incorporated into the building facade, such as accent lighting, down lighting, valance lighting, luminous ceilings, or track or fluorescent lighting that is built into a recess or projection of the façade.

Area, Gross

The total horizontal area within a lot or parcel of land before public streets, easements, or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.

Area, Gross Leasable

The total floor area of a commercial building designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, expressed in square feet as measured from the center line of joint partitions and from outside wall faces.

Area, Net

The remaining area of land after all deductions are made, including street and alley rights-of-ways, other publicly dedicated improvements such as parks, storm water management detention and retention facilities, flood control, and easements.

Area Plan

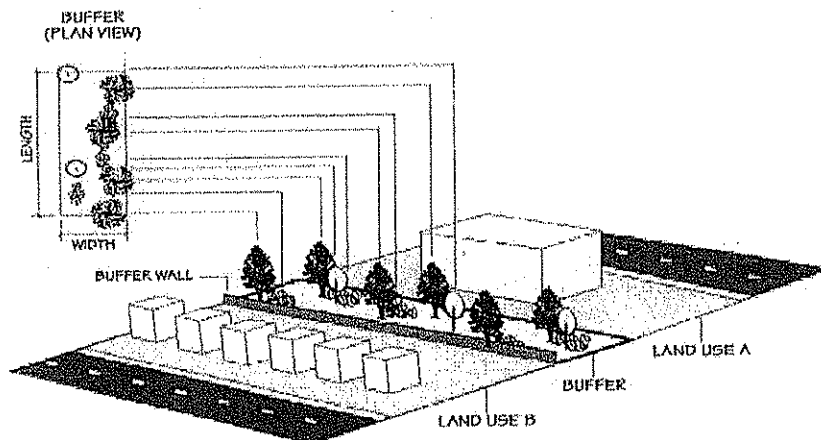
Area Plan means a written plan, adopted by the Board of Aldermen that provides a framework for the filing of applications for development approval and the development of specific parcels that are not under common ownership at the time that the planning process is initiated.

Brick

Baked clay or shale product that is solid or cored not in excess of twenty-five percent (25%).

Buffer

An area on a lot or parcel that parallels the side and/or rear property lot line(s) that extends into the lot from the property line, and which is included within the building setback line. The buffer is an area that may contain a berm, wall, or natural growth, or a combination thereof, which shall serve as barrier to vision, light, or other nuisances between adjoining properties, wherever required by this Code. Whenever used for screening or buffering purposes, "natural growth" shall be taken to mean coniferous, trees, bushes and shrubbery. Buffers may include, but are not limited to walkways, openings that are needed for access, earth berms, wooded or afforested areas; however, buffers shall not include structures, loading, parking, and/or outside storage areas, dumpsters, outside display areas, and other activities specifically associated with the business conducted on the subject lot. Buffers may, however, include fences or walls, which are designated by this Code and/or the Planning Commission or Department to mitigate activities on industrially zoned land when adjacent to residential districts.



Building

A structure other than a tent or travel trailer, which has one or more stories and a roof, and is designed primarily for the permanent shelter, support, or enclosure of persons, animals, or property of any kind. For purposes of the Historic Preservation Overlay (HPO) District regulations (§ 423 of this Code) ~~Historic Frederick District regulations (§423 of this Code)~~, a "building" is a structure created to shelter human activity.

Building Envelope

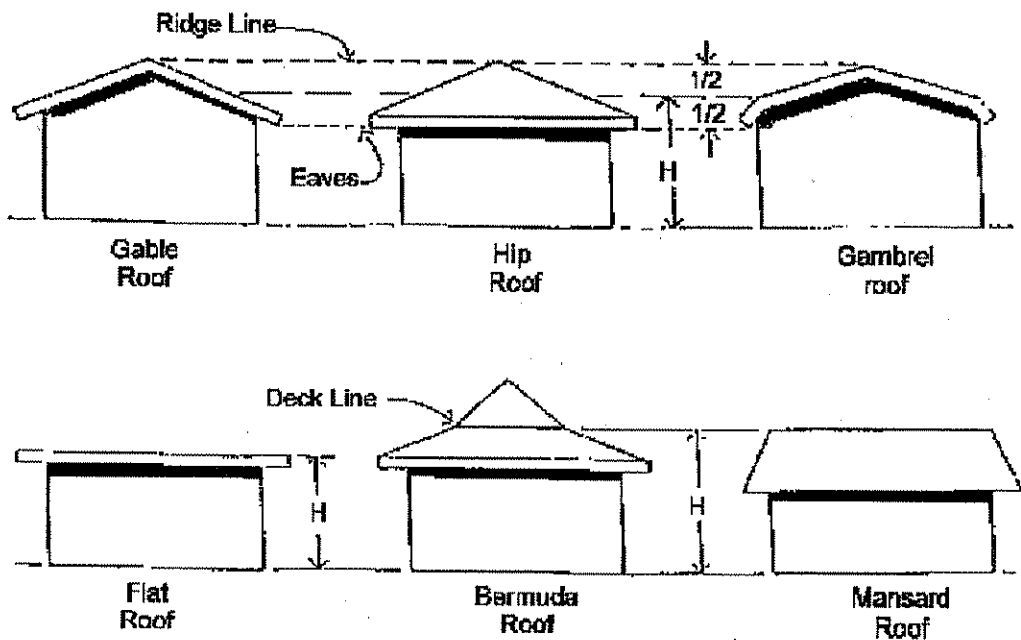
The three-dimensional area enclosed by the front, side and rear setbacks and the maximum height, as well as any side street or rear setbacks. For purposes of the Floodplain Management regulations (§720), "building envelope" means the area of a lot enclosed by building restriction lines.

Building Frontage

The architecturally designed front of a building on a public street, public parking lot, private parking lot available to the general public, or pedestrian walk where customer access to a structure is available; or the façade of a building that abuts the required front yard.

Building Height

The height is measured from the average finished grade ground level along the side of the building nearest the street to either the highest point of a flat roof or to the point one-half the distance between the eaves and the highest point of a pitched roof.



H = Height of building for zoning purposes.

C

Caliper

The diameter measured at two (2) inches above the root collar.

Carport

Permanent roofed structures open on at least two sides, designed for or occupied by private passenger vehicles.

Cemetery

A place for the permanent interment of dead human or animal bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.

Certificate of Approval

A certificate issued by the Historic Preservation Commission stating its approval of plans for construction, alteration, reconstruction, moving, or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated preservation district.

Certificate of Occupancy or Use

A certificate issued by the building official who certifies that a structure has been erected in accordance with this Code and all other ordinances of the city, the effect of which shall permit the occupancy of a building.

Champion Tree

The largest tree of its species within the United States, the State, county, or municipality.

Champion Tree of the State

A tree which appears in the State Forest Conservation Manual list of State champion trees.

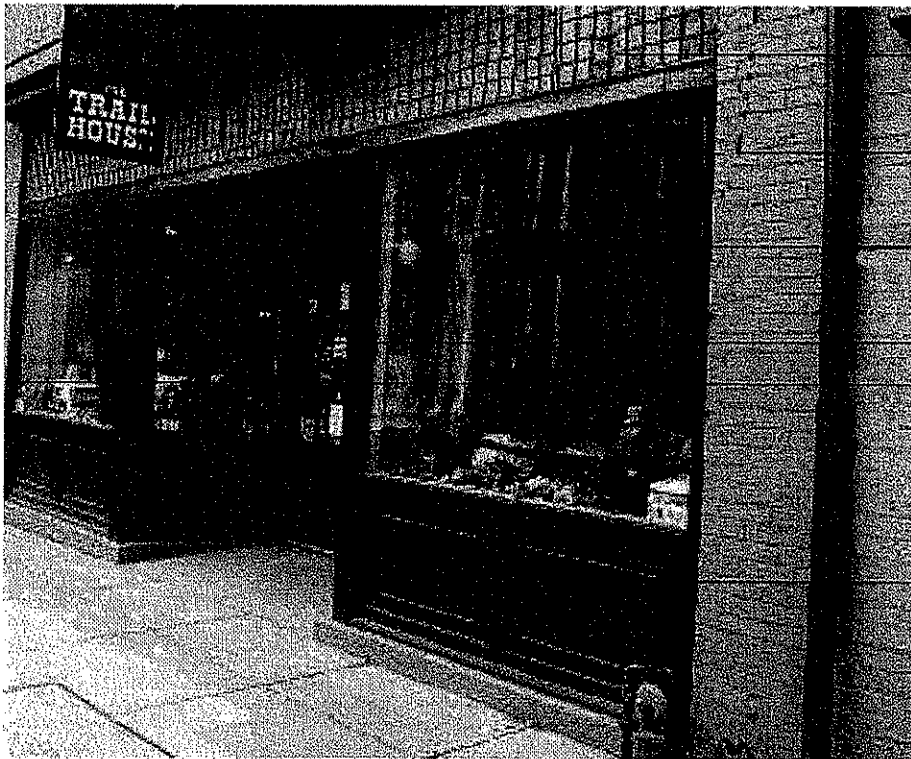
Channel Protection Storage Volume (Cpv)

The volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual, Volumes I & II.

Character-Character-Defining Elements or Features

Character-defining elements include the overall shape of a site or structure, its materials, craftsmanship, decorative details and features, as well as the distinctive aspects of its appurtenances and environmental setting. Character-defining elements make up the overall character, or the unique appearance, of a historic site or structure.

Building features that: (1) make a structure unique and different from other buildings, or (2) are characteristic elements of a particular architectural style, technique or architect, or (3) provide a building its unique identity. These include, but are not limited to, exterior building materials that include brick, stone, stucco, terra cotta, or wood; windows, shutters, and transoms; porches; roofs; cornices; bulkheads; piers; display windows; transoms; entrances; doors; parapets; or exterior or attached lighting.



Transom

Pier

Display window

Recessed entrance

Bulkhead or kick plat

Character Defining Elements for Storefront

(Source: Frederick Town Historic District Design Guidelines)

Character-Defining Feature

A prominent or distinctive aspect, quality, or characteristic of a district, site, building, structure, or object that contributes significantly to its physical character. (Reference: Historic Preservation Overlay (HPO) District regulations Historic Frederick District regulations, § 423 of this Code)

Child

An individual under the age of 16 years.

Church

A site or lot of record used exclusively or primarily as place of worship or assembly by a religious society or congregation of any sect, order, or denomination. "Church" may include but is not limited to a church, synagogue, mosque, or temple.

City

The City of Frederick, a municipal corporation.

Civic Building

Any of the following structure types, as defined in the Land-Based Classification Standards ("LBCS"), Structure and Function classifications:

LBCS Code(s)	Structure or Use Type
Structure 3000-3950	Public assembly structures. Examples include theaters (3100) and churches (3500)
Structure 4000	Institutional or community facilities. Examples include hospitals (4110) and schools or university buildings (4200 – 4230)

Civic Spaces

An area developed or undeveloped to be used for the citizens of Frederick City.

Claim of Entitlement

A claim of right to a water and/or sewer allocation based upon some legally binding agreement or contract with the City that was entered into prior to December 1, 2002. Allocations for Claims of Entitlement that are recognized by the City will be awarded from the Discretionary Allocation. Claims of Entitlement include only those written agreements into which the City entered with the specific intent to provide water to a site, location or property. Claims of Entitlement do not include general references to water availability, and or the City's obligation to supply water to lots, structures, subdivisions or areas annexed into the City.

Clear

Any activity which removes the vegetative ground cover.

Clearing

The removal of vegetative growth, including trees, brush, and roots, from the land but shall not include the ordinary mowing of grass.

CLOMA (Conditional Letter of Map Amendment)

FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the Base Flood Elevation on a portion of a legally defined parcel of land that is partially inundated by the Base Flood. (Source: Floodplain Management regulations, § 720 of this Code.)

CLOMR (Conditional Letter of Map Revision)

FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a stream and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the Special Flood Hazard Area (SFHA). The City of Frederick, or an individual through the City, may request FEMA's comments on whether a proposed project will justify a map revision if built as proposed. FEMA's comments will be issued in the form of a CLOMR. (Source: Floodplain Management regulations, § 720)

D

Day Care Center, Child

A public or private institution, agency, or establishment that is licensed by the State of Maryland and provides care to 9 or more children younger than 16 years of age in a facility located outside the home of the child's parent(s) or legal guardian(s) for all or part of a 24 hour day on a regular basis and at least twice a week. Such a facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative, pre-school, play group, drop-in center or similar term.

Day Care Facility, Adult

A public or private institution, agency or establishment that is licensed by the State, and provides nonresidential day care to five (5) or more health impaired individuals over the age of sixteen (16) years, in a facility located outside of the home of the adult's families. Days and hours of operation shall conform to the requirements set forth in COMAR Section 10.12.04.05N.

Decibel Noise Level

The total sound level in decibels (amplitude of sound) of all sound as measured with a sound level meter.

Declaration of Intent

A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property is for certain activities exempted under this Code or Natural Resources Article, Sec. 5-103 and 5-1601--5-1612, Annotated Code of Maryland, and does not circumvent the requirements of this Code or Natural Resources Article, Sec. 5-103 and 5-1601--5-1612, Annotated Code of Maryland, and does not conflict with the purposes of any other declaration of intent, or the document required under COMAR 08.19.01.05 or this Code.

Decorative

Special treatment or application such as texture or color used in building materials, walls, concrete finishes, or other building elements in order to provide ornamentation, but not required for the operation of the essential systems and components of a building. For walls or fences, "decorative" refers to fences constructed of masonry or ornamental iron, or white picket fences, but does not include wood slats, wire mesh or chain link fencing. The reviewing agency may approve other treatments, materials, applications, or colors that are substantially similar to those enumerated in this section. (Reference: Historic Preservation Overlay (HPO) District regulations, § 423 of this Code)

Demolition

Any act that destroys, in whole or in part, an individually designated building or structure, but may not include appurtenances and environmental settings.

Demolition by Neglect

Any willful neglect in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within a designated preservation overlay district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in or threatens to result in any of the following conditions:

- (a) The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition; or
- (b) The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to features including but not limited to foundations, exterior walls, roofs, chimneys, doors, or windows.

(Reference: Historic Preservation Overlay (HPO) District regulations ~~Historic Frederick District regulations~~, § 423 of this Code.)

Density, Gross

The total number of dwelling units per gross area of a subdivision or land development.

Density, Net

The total number of dwelling units per net area of a subdivision or land development.

Department

The Frederick City Department of Planning and Community Development, unless otherwise indicated.

For purposes of the Floodplain Management Regulations (§ 620), "Department" means the Department of Natural Resources, Water Resources Administration.

For purposes of the Historic Preservation Overlay (HPO) District regulations (§ 423 of this Code) ~~Historic Frederick District regulations (§ 423)~~, "department" means the Department of Planning and Community Development of The City of Frederick.

Design Manual

The 2000 Maryland Stormwater Design Manual, Volumes I & II, or subsequent revision, that serves as the official guide for stormwater management principles, methods, and practices and which are incorporated by reference by The City of Frederick and shall serve as the official guide for stormwater principles, methods and practices.

Detention Structure

A permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.

Development

Any man-made change to improved or unimproved real estate, including, but not limited to buildings and other structures, dredging, fill, grading, paving, clearing, excavation, dumping, extraction, or storage of equipment or materials. Development includes subdivision of land and substantial improvements. (Source: Floodplain Management regulations, § 720)

Developer

A person, firm, or governmental agency undertaking or proposing the construction of a structure, a project consisting of interrelated structures or other construction, and who has primary financial responsibility for the proposal. General contractors or subcontractors, or both, without a proprietary interest in a project are not included within this definition.

Developer Order

A document issued upon approval of an official board, commission or administrative officer authorizing a specific use and development and further authorizing the subsequent issuance of necessary permits.

Development Project

The grading or construction activities occurring on a specific tract and includes redevelopment as well as new construction.

Development Site

The total land area subject to an application for a type of development approval, i.e. Master Plan, MXE Concept Plan, subdivision plat, site plan, etc..

Display Window

Transparent glass that is used to display items for sale in a business.

"Transparent glass" does not include glass block or glass that is tinted so as to obscure the display items.

District or Zone

Area within the City, which certain uniform regulations or requirements apply under this Code. For purposes of the Historic Preservation Overlay (HPO)

District regulations (§ 423 of this Code) ~~Historic Frederick District regulations (§ 423 of this Code)~~, "district" means a geographically definable area—urban or rural, small or large—possessing a significant concentration, linkage, or continuity of sites, structures, or objects united by past events or aesthetically by plan or physical development. A historic district shall include all property within its boundaries as defined and designated by the Mayor and Board of Aldermen.

DNL

The symbol for "yearly day-night average sound level", which means the average daily sound level (based on a 365-day average), in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between 10 p.m. and 7 a.m., local time.

Essential Services

All those facilities wherever located which are erected, constructed, altered or maintained as part of an integrated system or program which is designed and used to furnish services reasonably necessary to the health, safety, or convenience of the public. Such public systems include water, electric, gas, communication, steam or sewer lines and all facilities, which are necessary parts of those systems. Such facilities include wires, poles, towers, pipes, alarm or emergency devices, traffic signals, fire hydrants, or similar apparatus as are used to provide a public service. An essential service may be provided by public utilities, local governments, or other competent parties. Structures or land used for storage, repair or processing of equipment or material; or substations for transforming, boosting, or switching purposes which are located at or above ground level, are not included in this definition and shall be subject to Planning Commission site plan review.

Exemption

Those land development activities that are not subject to the stormwater management or the erosion and sediment control requirements contained in this Code.

Extended Detention

A storm water design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPS are specified in the Design Manual.

Exterior Feature

The architectural style, design, and general arrangement of the exterior of an historic structure, including but not limited to the nature and texture of building material, and the type and style of all windows, doors, stoops, light fixtures, signs, or similar items found on or related to the exterior of an historic structure. (Reference: Historic Preservation Overlay (HPO) District regulations ~~Historic Frederick District regulations~~, § 423 of this Code.)

Exterior Insulation and Finishing System (EIFS)

An exterior finish for a building composed of polystyrene foam covered with synthetic stucco; this type of stucco (in contrast to traditional, porous cement-based stucco) is water proof and is sprayed on.

Extreme Flood Volume (Qf)

The storage volume required to control those infrequent but large storm events in which over bank flows reach or exceed the boundaries of the one hundred (100) year floodplain.

H

Hanging Sign

A projecting sign that hangs from a bracket or support and is suspended by chains or hooks.

Hardship

A restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights and would render the property unusable without the granting of a variance. Hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or use.

Hazard to Air Navigation

An obstruction determined by the Maryland Department of Aviation or the Federal Aviation Administration to have substantial adverse effect on the safe and efficient utilization of navigable airspace in the State.

Hazardous Material

Any of the following: liquid or gaseous petroleum, explosives, pathogenic or toxic substances, radioactive materials or any other substance that when mixed with water or exposed to air becomes explosive in nature or reacts in such a way as to release a toxic gas or liquid.

HDC/HPC Guidelines

The *Frederick Town Historic District Design Guidelines*, which requirements are incorporated by reference in Article 4 of this Code.

Health Club or Spa

An operation that allows participants to use exercise equipment, steam baths, and the like.

Hedges

A row of closely planted shrubs, bushes, or any kind of plant forming a boundary or fence.

Height or "Height of Building"

See "Building Height"

Height or "Height of Building"(as applied to the Airport)

For the purpose of determining the height limits in all zones set forth in this Code and shown on the Airport Layout Plan, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.

Heliport

A facility which conforms to Federal Aviation Administration rules and regulations that provides for helicopter landing and take-off movements and further provides for long-term helicopter parking and related services.

Helistop

A facility which conforms to Federal Aviation Administration rules and regulations that provides for helicopter landing and take-off movements only.

²High Density Residential Areas

- a) (as applied to Forest Conservation)
Areas zoned for densities greater than one (1) dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and corresponds to the City of Frederick Zoning Classification(s) of R-o, R4, R6, R8, R12, R16, R20, DB, MU and DR.
- b) (as applied to Zoning and performance standards)
Areas zoned for densities greater than 12 dwelling units per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and corresponds to the City of Frederick Zoning Classification(s) of R16, R20, and DR.

I

Impervious Surface

A man-made structure or surface that prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks swimming pools, or patios. Gravel surfaces and lakes/ponds shall not be considered to be impervious surfaces.

Impervious Surface Ratio

A mathematical expression dividing the amount of the site that is covered by any material that reduced or prevents the infiltration of storm water by the total horizontal area of the lot.

Improvements, Public

Any of the following: Publicly owned, operated, or maintained roads and streets, alleys, grading, road, pavement, curbs and gutters, sidewalks, crosswalks, pedestrian and bicycle paths, public transit facilities, water mains, sanitary sewer lines, water supply and sewage disposal, storm sewer line and drainage structures, curb returns, sidewalk and driveway entrances in rights-of-way, guard rails, retaining walls, sodding, planting, monuments, street lights, storm water management, parks and recreation areas and facilities, publicly owned or operated historic resources, public educational facilities, and public buildings and structures of any nature or kind.

Industrial Park

A tract of land which is subdivided and/or developed according to an overall plan for occupancy by a group of industries and is provided with streets and necessary utilities.

Infectious Waste

Means common and biohazard medical waste regulated by state and federal agencies.

Infill Development

The development of vacant or partially developed parcels which are surrounded by or in close proximity to areas that are substantially or fully developed.

Infiltration

The passage or movement of water into the soil surface.

Institutional Development Area

Schools, colleges and universities, transportation facilities, golf courses, recreation areas, parks, cemeteries, permitted in various areas of the City of Frederick district classification(s) and included in Article 4, Use Matrix of this Code.

Institutional Use

A public or private, profit or non-profit use designed to advance the knowledge or application of educational, religious, health, cultural or other similar objectives, unless otherwise specifically defined herein.

Integrated Development Projects

A comprehensive development project that contains individual lots that are held under common ownership or control .

Integrity

The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period. The seven qualities of integrity, as defined by the National Register of Historic Places, are location, setting, feeling, association, design, workmanship, and materials. (Reference: Historic Preservation Overlay (HPO) District regulationsHistoric Frederick District regulations, § 423 of this Code.)

Intermittent Stream

A stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

K, L

Laboratory, Dental

A place where dental bridgework and orthodontic appliances are made.

Laboratory, Medical

A place for the conquering and classification of human disease at the request of a physician for a particular patient.

Laboratory, Research

A place used for experimental study in a science for testing and analysis. This use includes the humane raising or experimentation on animals.

Land Planner

A person trained in the art of subdivision design, in a school of planning, landscape architecture, or similar training, and qualified by experience and demonstrated ability to apply the guides and standards in these regulations in an intelligent and creditable manner.

Land Surveyor

A Professional Land Surveyor duly registered by the State of Maryland to practice land surveying in accordance with the provisions of Business Occupations and Professions, Title 15 of the Annotated Code of Maryland, 1989.

Landmark

~~Any designated site or structure outside the boundaries of an historic district that is of exceptional historic, archeological, or architectural significance. (Reference: Historic Preservation Overlay (HPO) District regulations, § 423 of this Code) Historic Frederick District regulations, § 423)~~

Landscape Architect

A Person, Partnership, or Corporation that is licensed by the Maryland Board of Examiners of Landscape Architects to practice Landscape Architecture.

Landscaping

A proportional mix of grass, trees, hedges, shrubs, vines, ground covers, or flowers planted and maintained to enhance the appearance of a property including, but not limited to, fountains, reflecting pools, art works, screens, berms, walls, fences, and benches.

Landscaping Plan

A plan which is drawn to scale to match the scale of the associated development plan, showing dimensions and details for landscaping an area. As related to a forest plan, a landscape plan should show dimensions and details for reforesting an area at least thirty five (35) feet wide and covering 2,500 sq. feet or greater in size, and employs native or indigenous plants when appropriate; and which is made part of an approved forest conservation plan.

Lane

A relatively narrow way or strip of roadway for a single line of vehicles, excluding alleys.

Leq

Equivalent Sound Level (Leq), expressed in dB. Equivalent sound level, Leq, is the energy average noise level (usually A-weighted) integrated over some specified time. **Equivalent** signifies that the total acoustical energy associated with the fluctuating sound (during the prescribed time period) is equal to the total acoustical energy associated with a steady sound level of Leq for the same period of time. The purpose of Leq is to provide a single number measure of noise averaged over a specified time period.

Permittee

Any person to whom a building or grading permit has been issued.

Person

Includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

Person with Special Needs

An individual who by virtue of his/her limited cognitive, behavioral or physical functions require personal assistance or guidance for daily activities.

Pier

A vertical façade element that frames an opening. An "opening" includes a window, door, or similar break in the facade.

Planned Neighborhood Development (PND)

A development technique requiring a master plan that may be applied to any tract of land not exceeding fifty (50) acres for the purpose of providing integrated and creative design of a variety of land uses and housing types.

Pollutant

Any contamination or contaminant that will render the character of the water harmful or detrimental to: (1) public health, safety, or welfare; (2) domestic, commercial, industrial, agricultural, recreational, or other beneficial uses; (3) livestock, wild animals, or birds; or (4) fish or other aquatic life.

Porch

A roofed structure that: (1) projects from the front, side or rear wall of a building, (2) is open, or enclosed by glazing or screening, and (3) is not used as habitable living space.

Portable Storage Container

A standardized, reusable vessel that is or appears to be: (1) originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, or (2) designed for or capable of being mounted or moved on a rail car, or (3) designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

Preliminary subdivision plan

A plan for a proposed subdivision or resubdivision to be prepared and submitted for approval, in accordance with specifications and procedure provided herein, prior to preparation of a subdivision record plat.

Preservation

The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. Preservation includes upgrading of mechanical, electrical and plumbing systems and other such code-required work. (Reference: Historic Preservation Overlay (HPO) District regulations Historic Frederick District regulations, § 423 of this Code.)

Primary Façade

The "architectural front(s)" of a building. Within the Carroll Creek Overlay, the primary façade is the elevation of the building facing a street, Carroll Creek, or both.

Q

²"Qualified professional" (applied to Forest Conservation)

A person who meets the following requirements: Is a licensed forester; a licensed landscape architect; or is approved by a local program for work in that jurisdiction where the program has received final approval by the Department of Natural Resources, and criteria for a qualified professional is consistent with the requirements of the Department of Natural Resources; or is approved by the Department of Natural Resources as a qualified professional under COMAR 08.19.06.01A.

Questionnaire, Impact

A required form for the submission of a site plan or preliminary subdivision plat to the City of Frederick Planning Department that estimates population, water and sewer demand, trip generation, garbage generation, and parkland needs for a proposed development. This form is used by the Planning Department only as a planning tool, and not as a replacement for additional required studies. Two versions of the questionnaire exist for residential and non-residential developments.

R***Reception Facility***

A fixed facility or establishment meant solely for banquets, wedding receptions, recitals, corporate functions, non-profit organization fund raisers, bar mitzvahs, anniversary celebrations and the like; by reservation only, with food and beverage, brought on site or prepared in an approved kitchen on site. Entertainment scheduled in conjunction with the reserved events may be permitted as an accessory activity of the use. A reception facility shall not be operated as a restaurant with entertainment, and cannot be used as such.

Recessed Entry

A recess or niche located on the front façade of a building and which leads to a principal entry. A recessed entryway is unenclosed on the side adjoining the sidewalk, plaza or public right-of-way, enclosed on the opposite side with a wall containing a doorway, and enclosed on the other sides.

Recharge Volume (Rev)

That portion of the "water quality volume" used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.

Reconstruction

The process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time. (Reference: Historic Preservation Overlay (HPO) District regulations ~~Historic Frederick District regulations~~, § 423 of this Code.)

Rehabilitation, Building or Rehabilitation of Buildings

Any of the following work, as defined by the Rehabilitation Code, which is undertaken in an existing building:

- Repair;
- Renovation;
- Modification;
- Reconstruction;
- Change of occupancy; and
- Addition.

For purpose of this definition, the "Rehabilitation Code" means the *Maryland Building Rehabilitation Code* (2001) published by the published by the Maryland Department of Housing and Community Development, Maryland Revitalization Center, which document is hereby incorporated by reference.

²Reinforced plantings

Trees planted after the initial planting to supplement the quantity total required by the final forest conservation plan.

Repair

The process of rehabilitation which warrants additional work beyond simple maintenance; repair includes patching, piecing in, splicing, consolidating or otherwise, reinforcing materials according to recognized preservation methods. (Reference: Historic Preservation Overlay (HPO) District regulations ~~Historic Frederick District regulations~~, § 423 of this Code.)

Replacement Building

New construction in the Frederick Town Historic District of any size or use that is built on a lot or lots where a contributing historic structure was originally sited and subsequently destroyed, in any manner whatsoever including by neglect, since the adoption of this Ordinance on September 2, 2004.

Reservation

The assignment of land by a subdivider to be held by the subdivider until a future time for a specified use and no other use except as deemed suitable by the Planning Commission.

Resident Owner

The person whose permanent residence is in the principal structure or the ADDU and who has title to a lot where there is a single family dwelling unit and an ADDU or a proposal for an ADDU.

Residential District or Area

Any of the following zoning districts: RC (Resource Conservation); R4 (Low Density Residential); R6 (Low Density Residential), R8 (Medium Density Residential); R12 (Medium Density Residential); R16 (High Density Residential); and R20 (High Density Residential); RO (Residential Office) and DR (Downtown Residential).

Resource

For the purposes of § 423, "resource" means a part of feature of a structure.

Responsible Personnel

Any foreman, superintendent or project engineer who is in charge of onsite clearing and grading operations or sediment control associated with earth changes or disturbances.

Restaurant, Fast Food

Any place or establishment merchandising or dispensing food or drink at which customers are served:

- (a) While sitting in an automobile or other motor vehicle, or
- (b) Through an interior or exterior sales window, counter, or serving area and at which the food or drink served is packaged to facilitate its consumption outside the structure in which the food or drink is dispensed.

Restaurant, General

Any place or establishment merchandising or dispensing food or food and drink for consumption on the premises by at least 90% of its customers within the principal building.

Restaurant, with Entertainment

An establishment for the accommodation of public equipped with a dining room for the service of food and drink and a kitchen for the preparation of food within the building and where entertainment is permitted as an accessory use by Conditional use. Alcohol in Restaurants with Entertainment may be consumed only if the establishment holds a valid liquor license issued by the Frederick County Liquor License Commission. Restaurants with Entertainment shall not permit or include entertainment which includes or involves sexual conduct (as defined in Article 10), nudity, or obscenity.

Restoration

The process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period. (Reference Historic Preservation Overlay (HPO) District regulations; ~~Historic Frederick District regulations~~, § 423 of this Code.)

Retention

The deliberate holding and protecting of existing trees, shrubs, or plants on the site according to established standards as provided in the City of Frederick Forest Conservation Technical Manual.

Retention Structure

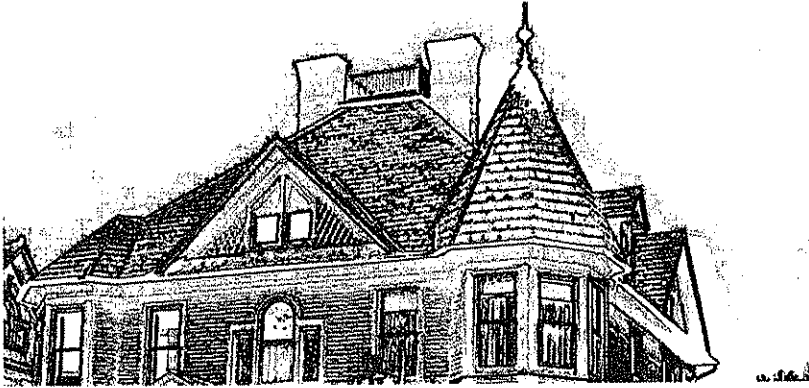
A permanent structure that provides for the storage of runoff by means of a permanent pool of water.

Retirement Community

"Retirement community" means a senior living community, retirement community, assisted living community, continuing care retirement community, independent living community, or similar community that offers a combination of independent living, assisted living, or nursing. "Retirement community" does not include: (i) a freestanding nursing home, as defined in § 19-1401 of the Health - General Article, that is licensed by the Department of Health and Mental Hygiene; (ii) a State facility, as defined in § 10-101 of the Md. Code Health - General Article; (iii) A program licensed by the Department of Mental Health and Hygiene under Title 7 or Title 10 of the Health - General Article; (iv) a freestanding hospice care program regulated by the Department of Mental Health and Hygiene under Title 19, Subtitle 9 of the Health - General Article; (v) a freestanding day care center for the elderly regulated by the Department of Mental Health and Hygiene under Title 14, Subtitle 2 of the Md. Code Health - General Article; (vi) a cooperative housing corporation organized under Title 5, Subtitle 6B of the Corporations and Associations Article and certified as a continuing care provider under Article 70B of the Code and separate entities certified as continuing care providers under Article 70B of the Code that provide services to residents of a cooperative housing corporation; or (vii) a condominium organized under Title 11 of the Real Property Article and certified as a continuing care provider under Article 70B of the Code and separate entities certified as continuing care providers under Article 70B of the Code that provide services to residents of a condominium. [Source: Md. Code § 23-101]

Roof, Complex:

A roof that consists of more than one roof form, and including at least one of the following: cross gables, towers, steeples, spires, cupolas, pyramids, parallel or cross-hipped formers, hip-on-gable forms, dual-pitched with hipped forms, or gable-on-hip forms.



Complex Roof

Roof Structures for Housing Elevators

A roof structure that covers the elevator shaft and mechanical equipment, as well as provide ventilation for the elevator, but does not allow the elevator doors to open on to the roof and does not provide immediate access to the roof level. See "Elevator Penthouse" for description of elevator encroachments that do provide access to the roof.

Roof Terrace

An open-air structure on a roof serving as an outdoor living area.

Rooming House

A dwelling in which, for compensation, lodging will be provided and meals may be provided to no more than two (2) permanent lodgers. A lodger as described in this definition shall be any lodger who resides for four (4) or more months. A rooming house is a residential accessory use, not a home occupation or a group home.

Routine maintenance

Work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historic, archaeological, or architectural significance of the historic site or structure. (Reference: Historic Preservation Overlay (HPO) District regulations ~~Historic Frederick District regulations~~, § 423 of this Code.)

Runway

A specified area on an airport prepared for landing and takeoff of aircraft.

Sign, Portable/Trailer

A sign which is not permanently affixed to the ground or a building and constructed of solid materials such as wood, metal, plastic and possibly mounted on wheels or signs on vehicles used as an advertising platform.

Sign, Projecting

A sign, other than a wall sign, that is attached to and projects in a perpendicular fashion beyond the surface to which it is affixed.

Sign, Residential Entry

A sign placed along the entry to a residential subdivision or a residential development. Residential entry signs are typically used to identify the subdivision or development.

Sign, Sandwich Board

A sign designed in an A-frame or other fashion, and having back-to-back sign faces.

¹⁵ Sign, Temporary

A sign constructed of durable and/or non-durable materials, such as cloth, canvas, fabric, wood, metal or plastic, with or without a structural frame, displayed for a limited period of time and advertising goods or services. This includes but is not limited to banners, streamers, pennants, freestanding signs, air and gas filled balloons and figures.

¹³ Sign, Wayfinding

A directional sign or kiosk described and approved under a City-sponsored and coordinated signage program for the purpose of facilitating vehicular and pedestrian movements to various destinations.

Sign, Window

A sign established within twelve (12) inches of window pane inside a window for purposes of viewing from outside the premises. Merchandise located in a window is not considered a "window sign."

Signal

An object placed to give notice or warning.

Single Room Occupancy Housing

A building consisting of single room dwelling units which are the primary residence of the occupant or occupants and, if the housing is being: (a) newly constructed, converted from nonresidential space, or reconstructed, each unit contains food preparation facilities or sanitary facilities, or both; or (b) acquired or rehabilitated, the building contains at least sanitary facilities for the use of occupants. (See COMAR 05.12.01.03)

Site

Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision or project. For purposes of the Historic Preservation Overlay (HPO) District regulations (§ 423 of this Code) ~~Historic Frederick District regulations~~, "site" means the location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance. For purposes of the Floodplain Management regulations (§ 720 of this Code), the term "site" has the following meanings:

- (a) For "new development" means any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one ownership, or are contiguous and in diverse ownership where development or redevelopment is to be performed as part of a unit, subdivision or project.
- (b) For "redevelopment" means the area of new construction as shown on an approved site plan; or the original parcel. Final determination of the applicable area shall be made by the Engineering Department.

Site, Prominent

Standing out or readily noticeable area of development or construction in comparison to the rest of the neighborhood or development.

Streetscape

The general appearance of a block or group of blocks with respect to the structures, setbacks from public rights-of-way, open space and the number and proportion of trees and other vegetation.

Streetside

For the purposes of defining on what building face upper floor step backs shall be placed, the street side is the street on which the new building has a City of Frederick approved address.

Stripping

Any activity which removes the vegetative surface cover, including roots, tree removal, clearing, grubbing and storage or removal of topsoil.

Structural Alteration

Any physical change to a structure including an addition to it.

Structural Bay

Building elevation sections that are defined by vertical architectural elements, such as masonry piers.

Structure

- (a) An assembly of materials forming a construction, or intended to form a construction, for any occupancy or use. For purposes of the Historic Preservation Overlay (HPO) District ~~Historic Frederick District~~ regulations (§ 423 of this Code), structure "means" a combination of material to form a construction that is stable, including but not limited to buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, and display signs visible or intended to be visible from a public way. "Structure" also includes a natural land formation and an appurtenance and environmental setting. The term "structure" shall be construed as if followed by the words, "or part thereof."
- (b) *(as applied to Floodplain Management regulations, § 720 of this Code.)*
A walled and roofed building including, but not limited to, manufactured homes, gas and liquid storage tanks, garages, barns and sheds.
- (c) *(as applied to the Airport)*
Any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, towers, poles and electric lines of overhead transmission routes, flag poles, and ship masts.

Stucco

A course plaster composed of Portland or masonry cement, sand, and hydrated lime, mixed with water and applied in plastic state to form a hard covering for exterior walls.

Subdivide

The act of creating a subdivision, as herein defined.

COMPREHENSIVE REZONING REQUESTS

Address	Zoning		Comp Plan		Property Owner	NAC
	Current	Proposed	Designation			
7912 Opossumtown Pike	IST	R-8	Low Density		Julius Levine & Tae Soon	2
7916 Opossumtown Pike	IST	R-8	Low Density		Lynda Lyons & John McKinney	2
7449 Hayward Road	IST	PB	Institutional		Mayfair Properties LLC	3
7630 Hayward Road	IST	M1	Office/Industrial		BOE	3
7516 Hayward Road	IST	M1	Office/Industrial		BOE	3
7518A North Market Street	RC	RC	Low Density		John/Wendy Gibson	4,7
Baughmans Lane	R4	R12	Medium Density		Gravely Investments	5
199 Baughman's Lane	R4	R12	Medium Density		Gonley Family Partnership	5
1301 West Patrick St	MU4	GC	Mixed Use		DLC Management	5
607 Rosemont Avenue	R6	IST	Low Density		Hood College	6
356 Park Avenue	DBO	R8	Mixed Use		Katie House	6
512 Elm Street	DBO	R8	Mixed Use		Tim/Christina Stevenson	6
1705 Rosemont Avenue	NC	MU1/MU2 Comm. Neighborhood			PR&G Investors, LLC	6
1707 Rosemont Avenue	NC	MU1/MU2 Comm. Neighborhood			PR&G Investors, LLC	6
1010 West 7th Street	R6	RO	Low Density		Various(Hargett Condo Assoc.)	6
1606 North Market St	R6	R6	Low Density		Allen Merchant	7
1705 North Market Street	NC	M1	Comm. Neighborhood		Coca-Cola Enterprises	7
1724 North Market Street	NC	M1	Comm. Neighborhood		Coca-Cola Enterprises	7
104 W. 9th Street	R8	RO	Residential Office		James/Corinne Bragg	7
317 South Jefferson Street	PB	NC	Office		Seyedali Mirmozaffary	9
214 Broadway Street	DR	GC	High Density		Gina Wredde	10
320 South Jefferson Street	PB	NC	Office		Seyedali Mirmozaffary	10
13 East 2nd Street	DBO	DB	Mixed Use		Larry Harper	11
115 East Church St.	IST	DB	Mixed Use		BOE	11
117 East Church St.	IST	DB	Institutional		BOCC	11
184 East South Street	MU1/M2	MU1	Mixed Use		Frederick Brick Works, Inc.18	11
184 East South Street	MU1/M2	MU1	Mixed Use		Frederick Brick Works, Inc.18	11
18 East Second Street	DBO	DB	Mixed Use		Katherine Sellers	11
North Market/Hope VI	DR	DR*	High Density/MU		Nexus Energy Homes	11

*remove HDO

